



General Assembly

February Session, 2008

Raised Bill No. 5888

LCO No. 3092

03092_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING REVISIONS TO THE OPTICAL SCAN VOTING SYSTEM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) Notwithstanding any
2 provision of the general statutes, the Attorney General shall appoint
3 each year an independent, professional audit team. Such team shall
4 oversee, in each voting district, random hand-to-eye counts of the
5 voter-verifiable paper records that are to be conducted by appropriate
6 election officials. Such audits shall be conducted for each election held
7 for federal or state office, including the offices of Governor, Lieutenant
8 Governor and members of the General Assembly, and for municipal
9 offices selected by the Attorney General. In each voting district, the
10 audit shall be conducted in at least two per cent of the voting districts
11 in which each audited election appears on the ballot. Voting districts
12 that are randomly selected for auditing for either the congressional or
13 state legislative elections in alternating years may be used to audit any
14 other election that appears on the ballot in such districts. Ballot
15 batches, as provided for in subsection (c) of this section, shall also be
16 audited subject to the provisions of this section.

17 (b) The membership and composition of any such audit team shall
18 be at the discretion of the Attorney General provided such team shall
19 consist of not less than four members, one of whom shall have
20 verifiable expertise in the field of statistics and another member who
21 shall have verifiable expertise in the field of auditing. No member of
22 the audit team shall include any person who: (1) Is serving in any
23 position on the candidate committee of any candidate for political
24 office in the elections that are subject to the manual audit; (2) is an
25 employee of, or reports to, the Attorney General; or (3) is serving as an
26 officer or an employee of any entity that designs, manufactures or
27 services a voting system used in the state.

28 (c) Such audit team shall oversee, supervise and require election
29 officials to conduct an audit of the results of an election in accordance
30 with the following procedures:

31 (1) (A) Any procedure designed, adopted and implemented by the
32 audit team shall be implemented to ensure with not less than ninety-
33 nine per cent statistical power that for each federal, gubernatorial or
34 other state-wide election held in the state, a one hundred per cent
35 manual recount of the voter-verifiable paper records would not alter
36 the electoral outcome reported by the audit.

37 (B) For each election held for state office, other than Governor and
38 Lieutenant Governor, and for municipal elections, any procedure
39 designed, adopted and implemented by such audit team shall be
40 implemented to ensure with not less than ninety per cent statistical
41 power that a one hundred per cent manual recount of the voter-
42 verifiable paper records would not alter the electoral outcome reported
43 by the audit. Such procedures designed, adopted and implemented by
44 the audit team to achieve statistical power shall be based upon
45 scientifically reasonable assumptions, with respect to each audited
46 election, including, but not limited to, the possibility that within any
47 election district up to twenty per cent of the total votes cast may have
48 been counted for a candidate or ballot position other than the one

49 intended by the voters, and that the number of votes cast per election
50 district will vary. Such procedures and assumptions shall be published
51 prior to any given election, and the public shall have the opportunity
52 to comment upon such procedures.

53 (2) Within a reasonable period of time after the final vote count after
54 an election, the Attorney General, with such audit team, shall
55 determine and then announce publicly the districts in the state in
56 which audits shall be conducted, and not later than twenty-four hours
57 after such announcement, the audit shall commence.

58 (3) With respect to votes cast at the voting district on the date of an
59 election, other than by emergency or provisional ballot, the audit team
60 shall oversee and supervise a hand-to-eye count of the voter-verifiable
61 paper records and compare those records with the count of such votes
62 announced by the election officials.

63 (4) With respect to the votes cast other than at the voting district on
64 the date of the election, or any other votes counted electronically on or
65 after the date of the election including votes cast by military service
66 voters and overseas federal election voters, the audit team shall
67 oversee and supervise a count by hand of the voter-verifiable paper
68 records as follows:

69 (A) To maintain voter privacy, prior to each election, the audit team
70 shall direct the appropriate election official to divide the ballots into
71 batches, hereinafter referred to as audit units. Each audit unit shall
72 contain approximately the average number of ballots cast in the voting
73 districts within the municipality, or fewer, but shall not be associated
74 with any particular district.

75 (B) As the ballots comprising each audit unit are counted
76 electronically, each audit unit shall be assigned a unique identification
77 number. Immediately after counting the ballots comprising each audit
78 unit, a cumulative summary vote tally report bearing the audit unit's
79 unique identification number and containing the sum of the vote totals

80 of the audit unit and all previously counted audit units in the election
81 shall be printed and affixed to the audit unit.

82 (C) The reports shall be subject to the same secure chain of custody
83 as the ballots comprising the audit units and shall be used by the audit
84 team to determine the electronic vote tally for each audit unit. The
85 audit team shall first compare the vote tallies in the final cumulative
86 report to the official results announced by the election officials and
87 resolve any discrepancies and then include all the audit units from
88 each district in the random selection process and, if selected, cause
89 them to be audited in the same manner provided for voting districts,
90 except that the hand-to-eye count shall be compared to the electronic
91 vote tally derived from the cumulative reports.

92 (5) (A) The selection of the voting districts, audit units and
93 municipal elections to be audited shall be made by the Attorney
94 General on a random basis by lot, at a public meeting, using a uniform
95 distribution in which all voting districts in which an election is held
96 have an equal chance of being selected, in accordance with such
97 procedures as the Attorney General, upon the recommendation of a
98 majority of the audit team, deems appropriate.

99 (B) Notwithstanding the requirements set forth in subparagraph (A)
100 of this subdivision, the audit team shall have the authority to cause
101 audits to be conducted of any voting district or audit unit which has
102 not been randomly selected for auditing in which a majority of the
103 audit team determines from the unaudited election results, past
104 election results or other data that the votes are likely to have been
105 miscounted. The Attorney General shall allow members of the public,
106 including, but not limited to, those permitted to observe recounts, to
107 observe the audits.

108 (6) As soon as practicable after the completion of an audit
109 conducted pursuant to this section, the Attorney General shall
110 announce publicly and publish the results of the audit and shall
111 include in the announcement a comparison of the results of the

112 election in the districts, as determined by the audit team performing
113 the audit, and the final vote count in the voting districts as announced
114 by the elections officials, including a list by voting district and audit
115 unit, of any discrepancies between the initial vote count and any
116 subsequent manual counts of the voter verifiable paper record,
117 explanations for such discrepancies, if any, and tallies of all overvotes,
118 undervotes or their equivalents, blank ballots, spoiled ballots and
119 cancellations recorded on the voter verifiable paper record. If the audit
120 conducted pursuant to this section results in a change in the number of
121 votes counted for any candidate, the revised vote totals shall be
122 incorporated in the official result from the relevant voting districts or
123 audit units.

124 (7) No municipal election official shall certify the results of any
125 election that is subject to an audit performed pursuant to this section
126 prior to the completion of the audit and the announcement and
127 publication of the results thereof as required by subdivision (6) of this
128 subsection. Such audit and publication of the results shall be
129 completed prior to the time the state shall make a final determination
130 with respect to any controversy or contest concerning the appointment
131 of its electors for President or Vice-President of the United States.

132 (8) (A) If the Attorney General, based on a recommendation of a
133 majority of the audit team, determines that any of the hand-to-eye
134 counts conducted under this section show cause for concern about the
135 accuracy of the results of any election in the state, the audit team shall
136 oversee, supervise and cause to be conducted hand-to-eye counts
137 under this section in such additional voting districts or audit units as
138 the Attorney General considers appropriate to resolve any such
139 concerns. Prior to any such election, the Attorney General shall issue
140 the criteria to be employed to determine whether the hand-to-eye
141 counts show concern about the accuracy of the election results in order
142 to trigger further hand-to-eye counts. Such criteria shall be published
143 prior to use in any given election, and the public shall have the
144 opportunity to comment on such criteria.

145 (B) Notwithstanding the requirements set forth in subparagraph (A)
146 of this section, additional hand-to-eye counts shall be conducted if, in
147 the initial audit conducted pursuant to this section, any discrepancy or
148 discrepancies attributable to the electronic counting system would
149 alter the vote share of any candidate or ballot position by one-tenth of
150 one per cent or more of the hand counted votes in the sample. Under
151 such circumstances, the audit of the election shall be expanded using
152 the same number of voting districts and, whenever possible, audit
153 units, as the initial audit and shall be conducted under the same
154 procedures used to conduct the initial audit, provided if the initial
155 audit comprises more than one-half the total number of election
156 districts and audit units in the election, the expanded audit shall be a
157 full hand-to-eye count of the remaining unaudited election districts
158 and audit units. Further hand-to-eye counts shall be conducted if any
159 discrepancy or discrepancies attributable to the electronic counting
160 system detected by the initial or subsequent expanded audit indicates
161 a substantial possibility that a complete hand-to-eye recount would
162 alter the outcome of the audited election.

163 (9) If the voter-verifiable paper records in any tabulator are found to
164 be unusable for an audit for any reason whatsoever, another tabulator
165 used in the same election shall be selected at random by the audit team
166 to replace the original tabulator in the audit sample. All such selections
167 shall be made randomly in the presence of those observing the audit
168 using a method approved by the Attorney General. An investigation to
169 determine the reason the voter-verifiable paper records were
170 compromised and unusable shall begin immediately, and the results of
171 the investigation shall be made public upon completion.

172 (d) Nothing in this section shall be construed to prevent a candidate
173 or other applicant from requesting a recount of an election result as
174 otherwise provided for under the general statutes. In the event that
175 such a recount is held in any voting district that has been audited
176 pursuant to this section, the official result from such voting district
177 shall be applied to the recount in lieu of conducting a subsequent hand

178 count of the audited election district unless a court, at the request of a
179 candidate or other applicant who requested the recount, so orders.

180 Sec. 2. (NEW) (*Effective from passage*) Notwithstanding any provision
181 of the general statutes, if a recanvass is required by law in a
182 municipality that uses marksense voting tabulators, such recanvass
183 shall be conducted by hand count.

184 Sec. 3. Subsection (a) of section 9-236b of the general statutes is
185 repealed and the following is substituted in lieu thereof (*Effective from*
186 *passage*):

187 (a) The Secretary of the State shall provide each municipality with
188 sufficient quantities of a poster size copy, at least eighteen by twenty-
189 four inches, of a Voter's Bill of Rights, which shall be posted
190 conspicuously at each polling place. The text of the Voter's Bill of
191 Rights shall be:

192 "VOTER'S BILL OF RIGHTS

193 Every registered voter in this state has the right to:

194 (1) Inspect a sample ballot before voting;

195 (2) Receive instructions concerning how to operate voting
196 equipment, on sample voting equipment before voting;

197 (3) Cast a ballot if the voter is in line when the polls are closing;

198 (4) Ask for and receive assistance in voting, including assistance in
199 languages other than English where required by federal or state law;

200 (5) Vote free from coercion or intimidation by election officials or
201 any other person;

202 (6) Cast a ballot using voting equipment that accurately counts all
203 votes;

204 (7) Vote by provisional ballot if the individual registered to vote and
205 the individual's name is not on the voter list;

206 (8) Be informed of the process for restoring the individual's right to
207 vote if the individual was incarcerated for a felony conviction; [and]

208 (9) Vote independently and in privacy at a polling place, regardless
209 of physical disability; and

210 (10) Be informed of the different voting options available and have
211 the right to use the voting system of the individual's choice from the
212 systems available.

213 If any of your rights have been violated, you have the right to file an
214 official complaint with the State Elections Enforcement Commission at
215 (toll-free telephone number) or the United States Department of
216 Justice at (toll-free telephone number). In addition, before leaving
217 the polling place you may notify the moderator of the violation."

218 Sec. 4. (NEW) (*Effective from passage*) Notwithstanding any provision
219 of the general statutes, the registrars of voters shall ensure that each
220 voting booth is placed in a location that is in plain view of all election
221 officials and electors waiting to vote, provided there shall be not less
222 than three feet between each such voting booth. Each voting booth
223 shall be situated so that no person outside such booth can determine
224 how an individual utilizing such booth voted.

225 Sec. 5. (NEW) (*Effective from passage*) The voting tabulator shall be
226 placed not less than three feet from any wall, partition or guardrail and
227 not less than four feet from the checkers' table. The registrars of voters
228 shall place a guardrail or other marking device around such tabulator
229 to prevent electors waiting in line from encroaching upon an elector
230 who is submitting his or her ballot into the tabulator. Such guardrail or
231 other marking device shall be placed not less than three feet from the
232 tabulator and shall be arranged in a manner to prevent electors from
233 determining the votes cast on each ballot submitted into the tabulator.

234 Sec. 6. (NEW) (*Effective from passage*) The registrars of voters shall
235 either ensure that each ballot clerk offer every elector a privacy sleeve
236 into which the ballot can be inserted and fully shielded from view or,
237 in the alternative, place such privacy sleeve in every voting booth for
238 the elector's use. No elector shall be required to accept a privacy sleeve.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	9-236b(a)
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section

Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	9-236b(a)
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section

Statement of Purpose:

To make certain revisions to the voting and recanvass process in response to the use of optical scan voting tabulators.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]